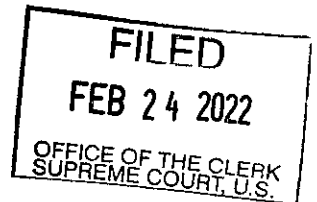


21-7281

ORIGINAL



IN THE

SUPREME COURT OF THE UNITED STATES

Hevin Debniam — PETITIONER
(Your Name)

vs.

Salazar et Al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals Fifth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Hevin Debniam
(Your Name)

200 N Comal 4062
(Address)

San Antonio Texas 78207
(City, State, Zip Code)

~~714~~ (562) 999-4904
(Phone Number)

QUESTION(S) PRESENTED

- ~~On April~~ why were police allowed to violate my fourth amendment right by arresting me without probable cause for the charge of Burglary of a vehicle, but after they investigated and nothing turned up to prove the burglary even took place. I was still held under arrest and told many times by police I was not until after being taken to the police station I was then rearrested and minimized again for aggravated assault with a deadly weapon?
- How is it fair for a DA to go before a grand jury to secure an indictment based on insufficient and on fabricated evidence, I was arrested without probable cause for burglary of a vehicle and when there was no evidence to prove the burglary I was still held for hours til I was later indicted for two counts of Aggravated Assault with a deadly weapon and felon possession of a fire arm. The DA is aware there was no evidence to prove the victims allegation that I broke into his vehicle and he was merely protecting his property and this was not a senseless attack racially motivated. There was also no evidence to prove I was even on the property being as though I was arrested in another persons yard. This DA is also aware that police conducted a biased investigation to see who fired the weapon because I was the only one tested for gun residue. I've been held for almost three years for an assault charge that the state could not prove the burglary that caused the incident even took place, the DA is well aware of this?
- How is it fair to the accused to be unlawfully arrested deprived due process, and when trial is to start all it takes is a testimony to convict someone when a proper investigation turns up nothing in the way of forensics to say the right person is arrested on a crime was even committed according to Texas law, prosecutions in my case and I'm sure many others stated Texas does not need physical evidence. How is that fair?

LIST OF PARTIES

☐ All parties appear in the caption of the case on the cover page.

☒ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

SAN ANTONIO Police Officer D. Elliot (Badge #969)

RELATED CASES

Hevin Debnam v Salazar NO. 19-cv-1000 U.S. District Western District of Texas
Judgment entered. May 26th 2020 / March 16th 2021

Debnam v Salazar NO. 21-50044 U.S. Court of Appeals for the Fifth Circuit

Judgment entered. December 17, 2021

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Trent v Wade 776 F3d

368, 387

Bowles v Russell 551 U.S.

205, 215

STATUTES AND RULES

FED. R. APP. P. 4(a)(1)(A)

FED. R. APP. P. 4(a)(5)

FED R. APP. P 4(a)(6)

5th Circuit Rule 47.5

5th Circuit Rule 47.5.4

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was Dec 17th, 2021.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: Dec 17th 2021, and a copy of the order denying rehearing appears at Appendix D.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was N/A.
A copy of that decision appears at Appendix N/A.

☐ A timely petition for rehearing was thereafter denied on the following date: N/A, and a copy of the order denying rehearing appears at Appendix N/A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Hevin Debnam, Texas prisoner #107439, moves for leave to proceed in forma pauperis (IFP) on appeal from the district court's dismissal of his 42 U.S.C. § 1983 lawsuit. The court must examine the basis of its own jurisdiction, sua sponte, if necessary, *Trent v Wade*, 776 F.3d 368, 387 (5th Cir. 2015) "[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement" *Bowles v Russell*, 551 U.S. 205, 215 (2007). A notice of appeal in a civil case must be filed within 30 days of the entry of judgment on order being appealed. Fed. R. App. P. 4(a)(1)(A).

Here, final judgment was entered on May 26th 2020. Debnam did not file his notice of appeal until January 22, 2021 several months too late. Although he asserted that his lawsuit had been "dismissed without his knowing" his untimely notice of appeal can not be treated as a request for an extension of time based on excusable neglect or good cause under Rule 4(a)(5) as such motions must be filed within 30 days of the entry of judgment. See Fed. R. App. P. 4(a)(5). Debnam similarly has not demonstrated that he could meet the requirements for reopening the time for filing an appeal under Rule 4(a)(6) such that his untimely notice of appeal should be construed as such a request see Fed. R. App. P. 4(a)(6).

* Pursuant to 5th Circuit Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in the 5th Circuit Rule 47.5.4.

A copy of the reason the Western District of Texas dismissed my 1983 form was never received even when I requested a copy of it.

STATEMENT OF THE CASE

On April 27th 2019 I was a victim of an attack, but the person who attacked me accused me of breaching into his vehicle something I did not do. I was punched, hit with a gun and almost choked to death. Police arrived and placed me under arrest minimized for the charge of Burglary of a vehicle. I was put in police car while my property was searched after which police informed me there was no evidence of a burglary and also told me many times I was not under arrest. I had to involuntarily go to the police station for questioning after another 2 hours I was re-arrested for two counts of aggravated assault with a deadly weapon; felon possession of a firearm and three weeks later I was charged with theft of a firearm. In June of 2019 the District Attorney went before a grand jury to secure a grand jury to secure an indictment. Police did not have probable cause to arrest me for this burglary nor was there evidence found the burglary even happened. So the evidence brought before the grand jury was insufficient I am accused of assaulting a person protecting his property forensics was done proving that it is absolutely nothing linking me to his property adding the fact the arrest was on someone else's property. Police did not investigate before they made their arrest. And for over two years I've been deprived due process. When I had trial in June 2021 police testified there was no evidence of this burglary besides his inconsistent testimony nothing could justify his senseless attack almost causing me to lose my life. In February 2022 I was sentenced to 13 years on a allegation the prosecution on police could not prove happened. Police arrested me without any facts kept me unlawfully detained til a crime of some sort turned up, this led to the District Attorney going before a grand jury on a unproven allegation to show I was the aggressor and not the victim. For almost three years no evidence could link me to this car or his property the arrest was made in a neighbors yard.

REASONS FOR GRANTING THE PETITION

I pray this petition is granted because thousands of people come through the courts of Bexar County Texas and we are being done unfairly. On the day of my arrest I was attacked by nothing more than racial profiling. I was accused of something that with all the technology we have can not be proven, and prosecution based its case on a statement / testimony with no evidence to corroborate it. Prosecution made it a point to inform the jury Texas does not need physical evidence to convict a person. This is unfair to a innocent person a person of mistaken identity or whatever the case maybe. For the District Attorney to go before a grand jury to secure an indictment on insufficient evidence and fabricated stories this case is what happened to me, there is thousands of us arrested in this county that could be going through the same thing or worse. In my case this person was protecting his property when police found us I'm on my stomach being choked, with another guy trying to break my arm, in a neighbors yard. Police could not prove forced entry, nothing was missing, no fingerprints there was no evidence linking me to a burglary, nothing making me the aggressor the evidence pointed to me being the victim. Threat ment like this is going on in the Bexar County District Attorneys office abusing its authority. In April 2019 and in my trial June 2021 there was no physical evidence, proving I should not have been indicted or even arrested for a burglary. Now I have to go to prison for 13 yrs on a false allegation and an indictment that should have been rejected. Many of us are in jail being deprived due process for crimes we should not have been indicted for. Police could not bring me before a magistrate for probable cause for the allegation of Burglary of a vehicle because probable cause did not and does not exist for that arrest.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Hevin Debnam

Date: 2/24/22